

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

Grand Juror Doe,)	
)	
Plaintiff,)	
)	
v.)	No. 4:15-cv-00006-RWS
)	
Robert P. McCulloch, in his official capacity)	
as Prosecuting Attorney for St. Louis)	
County, Missouri,)	
)	
Defendant.)	

Motion to Certify to Attorney General of Missouri that
Constitutionality of State Statutes has been Questioned

Pursuant to Fed. R. Civ P. 5.1(b) and 28 U.S.C. § 2403(b), Plaintiff moves this Court for entry of an order certifying to the Attorney General of the State of Missouri that the constitutionality of state statutes has been drawn in question. In support of this motion, Plaintiff states:

1. Plaintiff asserts that Missouri Revised Statutes Sections 540.080, 540.120, 540.310, and 540.320, as well as any other provision of Missouri law prohibiting Plaintiff from discussing or expressing an opinion about Plaintiff's grand jury service, the witnesses and evidence, the State's counsel to the grand jury, and Defendant's characterizations of the grand juror's views, are unconstitutional as applied. (Doc. # 1).

2. Plaintiff seeks, *inter alia*, a declaratory judgment that the challenged laws are unconstitutional as applied under the circumstances of this case.

3. Neither the State of Missouri nor any agency, officer, or employee of the State of Missouri is a party to this action. Plaintiff is an individual. Defendant is the Prosecuting Attorney for St. Louis County, named solely in his official capacity.

4. Plaintiff filed and served upon the Attorney General the notice required by Fed. R. Civ. P. 5.1(a). (Doc # 2).

5. Both the United States Code and the Federal Rules of Civil Procedure require the court to certify to the state attorney general when the constitutionality of a statute has been questioned. Fed. R. Civ. P. 5.1(b) provides, “[t]he court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.” 28 U.S.C. § 2403 provides: “In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State[.]”

WHEREFORE, Plaintiff requests this Court certify to Missouri’s Attorney General that the as-applied constitutionality of Mo. Rev. Stat. §§ 540.080, 540.120, 540.310, and 540.320, and any other provision of Missouri law prohibiting Plaintiff from discussing or expressing an opinion about Plaintiff’s grand jury service, the witnesses and evidence, the State’s counsel to the grand jury, and Defendant’s characterizations of the grand juror’s views has been drawn in question.

Respectfully submitted,

/s/ Anthony E. Rothert
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Certificate of Service

I certify that a copy of the foregoing has been sent by United States mail on January 12, 2015, to Robert P. McCulloch, St. Louis Prosecuting Attorney's Office, 100 South Central Avenue, Second Floor, Clayton, Missouri 63105.

/s/ Anthony E. Rothert